

**State of California
Office of Administrative Law**

In re:
FAIR POLITICAL PRACTICES COMMISSION

**NOTICE OF FILING OF EMERGENCY
REGULATORY ACTION UNDER THE
PROVISIONS OF THE APA IN EFFECT ON
JUNE 4, 1974**

Regulatory Action:

**Government Code Section 11380.2 as it
existed in 1974, and title 2, Cal. Code Regs,
section 18312(d)**

Title 2, California Code of Regulations

Adopt sections:

OAL File No. 2011-0330-03 FPPE

Amend sections: 18734


Repeal sections:

This emergency regulatory action is a follow up to the Commission's prior emergency action (OAL file no. 2011-0216-03FPPE), both dealing with financial disclosure by employees of newly created agencies. This current action adopts subdivision (c) of section 18734, which had inadvertently been left out of the prior filing. Pursuant to California Code of Regulations, title 2, section 18312(c)(3), this emergency regulatory action is effective February 10, 2011.

These regulations are exempt from review by the Office of Administrative Law, and subject only to the June 4, 1974 version of the Administrative Procedure Act (APA). This regulatory action becomes effective February 10, 2011. Filing of a certificate of compliance within 120 days will be required pursuant to Government Code section 11422.1 of the 1974 version of the APA.

OAL files this regulatory action following a review limited to those provisions of the APA in effect on June 4, 1974 (former Government Code section 11370 et seq.) pursuant to "Fair Political Practices Commission v. Office of Administrative Law," Court of Appeal, Third District (April 27, 1972), Case No. C010924 [unpublished opinion].

Date: 4/1/2011


Debra M. Cornez
Assistant Chief Counsel/Acting Director

Original: Ann Ravel
Copy: Virginia Latteri-Lopez

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2011-0330-03FPPE
For use by Office of Administrative Law (OAL) only			
		2011 MAR 30 PM 5:01 OFFICE OF ADMINISTRATIVE LAW	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Fair Political Practices Commission			AGENCY FILE NUMBER (if any)

ENDORSED APPROVED
IN THE OFFICE OF

2011 APR -1 PM 2:38


 DEBRA BOWEN
 SECRETARY OF STATE
A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER		FAX NUMBER (Optional)	
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Financial Disclosure by Employees of Newly Created Agencies		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2011-0216-03FPPE	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
		AMEND 18734	
TITLE(S) 2		REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input checked="" type="checkbox"/> File & Print <input checked="" type="checkbox"/> Other (Specify) <u>Emergency action; FPFC v. OAL</u> <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input checked="" type="checkbox"/> Effective other (Specify) <u>February 10, 2011</u>			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Virginia Latteri-Lopez		TELEPHONE NUMBER 916-322-5660	FAX NUMBER (Optional) 916-327-2026 E-MAIL ADDRESS (Optional) vlatteri-lopez@fpfc.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE



3/30/11

TYPED NAME AND TITLE OF SIGNATORY

General Counsel

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

APR 01 2011

Office of Administrative Law

1 Amend 2 Cal. Code Regs. Section 18734 to read:

2 **§ 18734. New Positions Pending Code Adoption or Amendment.**

3 (a) New Positions and Consultants – Interim Disclosure: Consultants and individuals in
4 newly created positions as set forth in Regulation 18219, including positions at newly created
5 agencies, that make or participate in the making of decisions that may foreseeably have a
6 material effect on any financial interest shall file interim disclosure under this category.

7 (b) Disclosure Requirements: ~~Individuals~~ Persons in positions specified in subdivision
8 (a) of this regulation shall file under the broadest disclosure category in the agency's conflict-of-
9 interest code or, if the agency does not have a conflict-of-interest code, provide full disclosure
10 until a new code is adopted and approved to reflect the position. However, if the position does
11 not involve duties that require disclosure under the broadest disclosure category or under full
12 disclosure, the agency must set interim disclosure within 30 days of the establishment of the new
13 position or new agency that is more tailored to the position's limited range of duties. This
14 determination shall include a description of the position's duties and, based upon that
15 description, a statement of the extent of disclosure requirements. Full disclosure means that the
16 statement discloses all investments and interests in real property held on the date of assuming
17 office, and income received during the 12 months immediately preceding assuming office. The
18 code reviewing body shall determine the filing location for statements.

19 (c) The Commission shall prescribe a form on which an agency must report disclosure
20 requirements pursuant to this regulation. The form must include, at a minimum, the following
21 information:

22 (1) A list of new positions not covered in an agency conflict-of-interest code, the
23 position's duty statement or description, and the disclosure requirements for each position.

1 (2) Newly created agencies must list consultants that file a statement of economic
2 interests pursuant to a contract. Information must include a description of the associated
3 governmental duties and an explanation of the disclosure requirements. This information is also
4 required when an existing agency tailors disclosure for a consultant.

5 (3) The form must be signed by the agency head.

6 (d) Public Records: Records pertaining to positions that file under this category are public
7 records and must be retained for the public's inspection in the same manner and location as the
8 agency's conflict-of-interest code as set forth in Section 81008(a). This includes any written
9 documents that support a limited disclosure category.

10 ~~(e)~~ (e) Time of Filing: Persons in positions specified in this regulation shall file an initial
11 statement within 30 days of assuming office and shall continue to file annually in the same
12 manner and location specified in the agency's conflict-of-interest code.

13 ~~(e)~~ (f) Annual Statement: Any statement filed under this provision is deemed to satisfy
14 the requirement of Section 87302(b), which requires that an initial or annual statement be filed.

15 ~~(f)~~ (g) Nothing in this regulation shall be construed to exempt any agency from
16 complying with provisions of Section 87306.

17 ~~(g) Effective Date: This regulation shall be effective January 1, 2010.~~

18 NOTE: Authority cited: Section 83112, Government Code. Reference: Section 87302,
19 Government Code.